



County of Los Angeles CHIEF EXECUTIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION
LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://ceo.lacounty.gov>

DAVID E. JANSSEN
Chief Executive Officer

July 31, 2007

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**DEPARTMENT OF PUBLIC WORKS: EAST COUNTY MEDIANS –
LANDSCAPE AND MEDIAN MAINTENANCE
(SUPERVISORIAL DISTRICTS 1, 4, AND 5)
(3 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the contract work continues to be exempt from the provisions of the California Environmental Quality Act.
2. Find that this service can be more economically performed by an independent contractor than by County employees.
3. Approve amending Contract No. 74132 for East County Medians – Landscape and Median Maintenance services with Azteca Landscape to enable this contract to continue on a month-to-month basis for up to three months, starting August 20, 2007, while the Department of Public Works completes the solicitation process for a replacement contract.
4. Authorize the Department of Public Works to encumber an additional amount of up to \$15,080.19 (\$5,026.73 monthly) for this contract. Funds are available in the Fiscal Year 2007-08 Road Fund Budget.
5. Delegate authority to the Director of Public Works to expend up to 25 percent of the additional amount for unforeseen, additional work within the scope of the contract, if required.

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

6. Instruct the Chairman to execute this amendment.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of this action is to continue these landscape and median maintenance services on a month-to-month basis starting August 20, 2007, for up to three months while the Department of Public Works completes the solicitation process for a replacement contract. The preparation of solicitations began several months ago, but there have been recent changes to the solicitation, such as certification of requirement changes, which has delayed the submission of proposals and award of the future contract. When proposals have been received and evaluated, the Department of Public Works will recommend contract awards within the next three months for continued provision of these landscape and median maintenance services.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs that we provide Organizational Effectiveness (Goal 3) and Fiscal Responsibility (Goal 4). This amendment will continue to utilize the contractor's expertise to effectively provide landscape and median maintenance service in a timely, effective, and responsive manner.

FISCAL IMPACT/FINANCING

There will be no impact on net County cost. The cost of the service is estimated to be \$15,080.19 (\$5,026.73 monthly), plus an additional 25 percent for unforeseen, additional work within the scope of the contract. Funds are available in the Fiscal Year 2007-08 Road Fund Budget.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The amendment, which is substantially reflected in the attached form, will continue the contract's current terms, specifications, and conditions with the exception of complying to the updated Living Wage rates. This amendment has been executed by the contractor and approved as to form by County Counsel.

On August 20, 2002, Agenda 43, your Board awarded Contract No. 74132 with Azteca Landscape to provide median landscape maintenance services at various locations in the East County. Furthermore, on March 18, 2006, Agenda 46, your Board amended Contract No. 74132 to provide monthly landscape maintenance services at a newly constructed median on Nogales Street between Colima Road and Pathfinder Road. Additionally, on February 21, 2006, Agenda 46, your Board amended

Contract No. 74132 to provide monthly landscape maintenance of various additional medians and sites in the area through November 20, 2006. Lastly, on October 31, 2006, Agenda 32, your Board amended Contract No. 74132 to provide monthly maintenance of the Fairway Drive median between Walnut Drive and Colima Road.

The contract was for an initial two-year period with three 1-year renewal options beginning August 20, 2002.

Since this is a Proposition A contract, the Department of Public Works has determined that the contractor complies with the requirements of the Living Wage Program (Los Angeles County Code Chapter 2.201) and agrees to pay its full-time employees providing County services the revised Living Wage of \$11.84 without health benefits.

Using methodology approved by the Auditor-Controller, the Department of Public Works has calculated the cost-effectiveness of contracting for this service. Based on the cost calculations, the Department of Public Works has determined that this service can be more economically performed by an independent contractor than by County employees

ENVIRONMENTAL DOCUMENTATION

This service is categorically exempt from the provisions of the California Environmental Quality Act (CEQA). This service is within a class of projects, which has been determined not to have a significant effect on the environment in that it meets the criteria set forth in Section 15301 (h) of the State CEQA Guidelines.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the amendment will continue the current contract services.

The Honorable Board of Supervisors
July 31, 2007
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CONCLUSION

Please return one adopted copy of this letter to the Department of Public Works,
Administrative Services Division.

Respectfully submitted,


DAVID E. JANSSEN
Chief Executive Officer

DEJ:DLW
GZ:dw

Attachments (3)

c: County Counsel
Office of Affirmative Action Compliance
Department of Public Works (Road Maintenance)

AMENDMENT 4 TO CONTRACT NO. 74132EAST COUNTY MEDIANS – LANDSCAPE AND MEDIAN MAINTENANCE SERVICES

THIS AMENDMENT, made and entered into this 31ST day of JULY, 2007, by and between the COUNTY OF LOS ANGELES, a subdivision of the State of California, a body corporate and politic (hereinafter referred to as COUNTY) and AZTECA LANDSCAPE, a corporation (hereinafter referred to as CONTRACTOR).

WITNESSETH

WHEREAS, Contract No. 74132 was entered into between the COUNTY and the CONTRACTOR, on August 20, 2002, to provide landscape and median maintenance services for a period of two years with three 1-year renewal options; and

WHEREAS, in accordance with Part I, Section 2.G, Additional Work; and Part II, Section 3.G, Changes and Amendments of Terms of the Contract, Amendment 1 to Contract No. 74132 was entered into between the COUNTY and the CONTRACTOR on March 18, 2003; and

WHEREAS, in accordance with Part I, Section 2.G, Additional Work; and Part II, Section 3.G, Changes and Amendments of Terms of the Contract, Amendment 2 to Contract No. 74132 was entered into between the COUNTY and the CONTRACTOR on February 21, 2006; and

WHEREAS, in accordance with Part I, Section 2.G, Additional Work; and Part II, Section 3.G, Changes and Amendments of Terms of the Contract, Amendment 3 to Contract No. 74132 was entered into between the COUNTY and the CONTRACTOR on October 31, 2006; and

WHEREAS, since Contract No. 74132 was entered into, the COUNTY has adopted a revised Assignment by Contractor policy and a revised Contractor Responsibility and Debarment policy; and

WHEREAS, on February 6, 2007, the Board of Supervisors approved increases in the County Living Wage Program's hourly rates; and

WHEREAS, the Board directed that all current COUNTY contracts subject to the Living Wage Program be amended to reflect the new rates when the contracts were either renewed for an option-year or otherwise amended after June 15, 2007; and

WHEREAS, Contract No. 74132 is set to expire on August 19, 2007; and

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74132
Supplement No. 3

WHEREAS, the parties desire to extend the contract beyond August 19, 2007, on a month-to-month basis for up to three months, at an aggregate amount not to exceed \$15,080.19 (\$5,026.73 monthly); and

WHEREAS, starting August 20, 2007, the COUNTY desires to have the CONTRACTOR pay its employees at least the newly approved Living Wage Program's hourly rates; and

WHEREAS, the CONTRACTOR is willing to pay its employees for providing service under this Contract the revised Living Wage Program's hourly rates; and

WHEREAS, the CONTRACTOR is willing to continue to provide the service, under the Contract's existing terms and conditions, during the period as extended under this AMENDMENT.

NOW, THEREFORE, in consideration of these facts and payment to be made by the COUNTY, the COUNTY and the CONTRACTOR agree that Contract No. 74132 between them shall be amended as follows:

FIRST: Part I, Section 2.W, Duration of Contract is hereby amended and modified to extend the expiration of the term of the Contract on a month-to-month basis for a period of up to three months, beginning August 20, 2007, as follows:

- The CONTRACTOR shall provide continuous performance of this Contract from month to month, commencing on August 20, 2007, up to the maximum period of three months, through and including November 20, 2007, unless the COUNTY provides written notice of nonrenewal at least ten days before the last day of any month, in which case this Contract shall expire as of midnight on the last day of that month.

SECOND: This Contract's Exhibit B, Section 7, Compliance With County's Living Wage Program, is deleted in its entirety and is replaced by Attachment A to this AMENDMENT.

THIRD: The CONTRACTOR agrees to pay its employees for providing services under this Contract the Living Wage in accordance with Form LW-3, Contractor Living Wage Declaration (Attachment B).

FOURTH: This Contract's monthly amount for providing landscape and median maintenance services for East County Medians is increased from \$3,487.84 to \$5,026.73, or such greater sum as the Board may approve.

FIFTH: This Contract's Form LW-8, Cost Methodology, is revised as reflected in Attachment C for the third option-year and any additional option-years.

SIXTH: This AMENDMENT will take effect on August 20, 2007.

[illegible]

IN WITNESS WHEREOF, the COUNTY has, by order of its Board of Supervisors, caused these presents to be subscribed by the Chairman of said Board and the seal of said Board to be affixed and attested by the Clerk thereof, and the CONTRACTOR has subscribed its name by and through its duly authorized officers, as of the day, month, and year first written above.

COUNTY OF LOS ANGELES

ATTEST:

SACHI A. HAMAI
Executive Officer of the
Board of Supervisors of
the County of Los Angeles



By [Signature]
Deputy

By [Signature]
Chairman, Board of Supervisors

I hereby certify that pursuant to
Section 25103 of the Government Code,
delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Directors

By [Signature]
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By [Signature]
Deputy

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

30

JUL 31 2007

[Signature]
SACHI A. HAMAI
EXECUTIVE OFFICER

AZTECA LANDSCAPE

By [Signature]
Its President
Vice-President

Rosa M Lopez
Type or Print Name

By [Signature]
Its Secretary CFO

Rosa M Lopez
Type or Print Name

ALL-PURPOSE ACKNOWLEDGMENT

<p>State of <u>California</u></p> <p>County of <u>Los Angeles</u></p> <p>On <u>July 10, 2009</u> before me <u>V.F. Ramirez, Notary Public</u> <small>NAME, TITLE OF OFFICE - e.g. "Jane Doe, Notary Public"</small></p> <p>personally appeared <u>Rosa M Lopez</u> <small>NAME(S) OF SIGNER(S)</small></p> <p><input checked="" type="checkbox"/> personally known to me -OR- <input type="checkbox"/> proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.</p> <p>Witness my hand and official seal.</p> <div style="display: flex; align-items: center; margin-top: 10px;"> <div style="flex: 1;"> <p style="text-align: center; margin-top: 5px;">SIGNATURE OF NOTARY</p> </div> <div style="flex: 1; border: 1px solid black; padding: 5px; text-align: center;"> <p>V. F. RAMIREZ Commission # 1745884 Notary Public - California San Bernardino County My Comm. Expires Jun 13, 2011</p> </div> </div>	<p>CAPACITY CLAIMED BY SIGNER(S)</p> <p><input type="checkbox"/> INDIVIDUAL(S)</p> <p><input checked="" type="checkbox"/> CORPORATE OFFICER(S) <u>VP and CFO</u>, AND</p> <hr/> <p><input type="checkbox"/> PARTNER(S) <small>TITLE(S)</small></p> <p><input type="checkbox"/> ATTORNEY-IN-FACT</p> <p><input type="checkbox"/> TRUSTEE(S)</p> <p><input type="checkbox"/> GARDIAN/CONSERVATOR</p> <p><input type="checkbox"/> OTHER: _____</p> <hr/> <p>SIGNER IS REPRESENTING:</p> <p>NAME OF PERSON(S) OR ENTITY(IES) <u>Anteca Landscape</u></p> <hr/>		
<p><small>ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to unauthorized document.</small></p> <table style="width: 100%;"> <tr> <td style="width: 30%; vertical-align: top;"> <p>THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:</p> </td> <td style="width: 70%;"> <p>Title or Type of Document <u>Amendment 4 to Contract No. 74132</u></p> <p>Number of Pages <u>4</u> Date of Document _____</p> <p>Signer(s) Other Than Named Above _____</p> </td> </tr> </table>		<p>THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:</p>	<p>Title or Type of Document <u>Amendment 4 to Contract No. 74132</u></p> <p>Number of Pages <u>4</u> Date of Document _____</p> <p>Signer(s) Other Than Named Above _____</p>
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SECTION 9

COMPLIANCE WITH COUNTY'S LIVING WAGE PROGRAM

A. Living Wage Program

This Contract is subject to the provisions of County's ordinance entitled Living Wage Program as codified in Sections 2.201.010 through 2.201.100 of the Los Angeles County Code, a copy of which is attached hereto as Form LW-1 and incorporated by reference into and made a part of this Contract.

B. Payment of Living Wage Rates

1. Unless Contractor has demonstrated to County's satisfaction either that Contractor is not an "Employer" as defined under the Living Wage Program (Section 2.201.020 of County Code) or that Contractor qualifies for an exception to the Living Wage Program (Section 2.201.090 of County Code), Contractor shall pay its Employees no less than the applicable hourly living wage rate, as set forth immediately below, for the Employees' services provided to County, including, without limitation, "Travel Time" as defined below in subsection 5 of this Section 9.B under this Contract:

- a. Not less than \$11.84 per hour if, in addition to the per-hour wage, Contractor contributes less than \$2.20 per hour towards the provision of bona fide health care benefits for its Employees and any dependents; or
- b. Not less than \$9.64 per hour if, in addition to the per-hour wage, Contractor contributes at least \$2.20 per hour towards the provision of bona fide health care benefits for its Employees and any dependents. Contractor will be deemed to have contributed \$2.20 per hour towards the provision of bona fide health care benefits if the benefits are provided through County Department of Health Services Community Health Plan. If, at any time during this Contract, Contractor contributes less than \$2.20 per hour towards the provision of bona fide health care benefits, Contractor shall be required to pay its Employees the higher hourly living wage rate.

2. For purposes of this Section, "Contractor" includes any subcontractor engaged by Contractor to perform services for County under this Contract. If Contractor uses any subcontractor to perform services for County under this Contract, the subcontractor shall be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract and a copy of the Living Wage Program shall be attached to the subcontract. "Employee" means any individual who is an employee of Contractor under the laws of California, and who is providing full-time services to Contractor, some or all of which are provided to County under this Contract. "Full-time" means a minimum of 40 hours worked per week, or a lesser number of

hours, if the lesser number is a recognized industry standard and is approved as such by County; however, fewer than 35 hours worked per week will not, in any event, be considered full-time.

3. If Contractor is required to pay a living wage when this Contract commences, Contractor shall continue to pay a living wage for the entire term of this Contract, including any option period.
4. If Contractor is not required to pay a living wage when this Contract commences, Contractor shall have a continuing obligation to review the applicability of its "exemption status" from the living wage requirement. Contractor shall immediately notify County if Contractor at any time either comes within the Living Wage Program's definition of "Employer" or if Contractor no longer qualifies for an exception to the Living Wage Program. In either event, Contractor shall immediately be required to commence paying the living wage and shall be obligated to pay the living wage for the remaining term of this Contract, including any option period. County may also require, at any time during this Contract and at its sole discretion, that Contractor demonstrate to County's satisfaction that Contractor either continues to remain outside of the Living Wage Program's definition of "Employer" and/or that Contractor continues to qualify for an exception to the Living Wage Program. Unless Contractor satisfies this requirement within the time frame permitted by County, Contractor shall immediately be required to pay the living wage for the remaining term of this Contract, including any option period.
5. For purposes of Contractor's obligation to pay its Employees the applicable hourly living wage rate under this Contract, "Travel Time" shall have the following two meanings, as applicable: 1) With respect to travel by an Employee that is undertaken in connection with this Contract, Travel Time shall mean any period during which an Employee physically travels to or from a County facility if Contractor pays the Employee any amount for that time or if California law requires Contractor to pay the Employee any amount for that time; and 2) With respect to travel by an Employee between County facilities that are subject to two different contracts between Contractor and County (of which both contracts are subject to the Living Wage Program), Travel Time shall mean any period during which an Employee physically travels to or from, or between such County facilities if Contractor pays the Employee any amount for that time or if California law requires Contractor to pay the Employee any amount for that time.

C. Contractor's Submittal of Certified Monitoring Reports

1. Contractor shall submit to County certified monitoring reports at a frequency instructed by County. The certified monitoring reports shall list all of Contractor's Employees during the reporting period. The certified monitoring reports shall also verify the number of hours worked, the hourly wage rate

paid, and the amount paid by Contractor for health benefits, if any, for each of its Employees. The certified monitoring reports shall also state the name and identification number of Contractor's current health care benefits plan, and Contractor's portion of the premiums paid as well as the portion paid by each Employee. All certified monitoring reports shall be submitted on forms provided by County, or any other form approved by County which contains the above information. County reserves the right to request any additional information it may deem necessary. If County requests additional information, Contractor shall promptly provide such information. Contractor, through one of its officers, shall certify under penalty of perjury that the information contained in each certified monitoring report is true and accurate.

D. Contractor's Ongoing Obligation to Report Labor Law/Payroll Violations and Claims

During the term of this Contract, if Contractor becomes aware of any labor law/payroll violations or any complaint, investigation, or proceeding ("claim") concerning any alleged labor law/payroll violation (including but not limited to any violation or claim pertaining to wages, hours, and working conditions such as minimum wage, prevailing wage, living wage, the Fair Labor Standards Act, employment of minors, or unlawful employment discrimination), Contractor shall immediately inform County of any pertinent facts known by Contractor regarding the same. This disclosure obligation is not limited to any labor law/payroll violation or claim arising out of Contractor's contract with County, but instead applies to any labor law/payroll violation or claim arising out of any of Contractor's operation in California.

E. County Auditing of Contractor Records

Upon a minimum of 24 hours' written notice, County may audit, at Contractor's place of business, any of Contractor's records pertaining to this Contract, including all documents and information relating to the certified monitoring reports. Contractor is required to maintain all such records in California until the expiration of five years from the date of final payment under this Contract. Authorized agents of County shall have access to all such records during normal business hours for the entire period that records are to be maintained.

F. Notifications to Employees

Contractor shall place County-provided living wage posters at each of Contractor's place of business and locations where Contractor's Employees are working. Contractor shall also distribute County-provided notices to each of its Employees at least once per year. Contractor shall translate posters and handouts into Spanish and any other language spoken by a significant number of Employees.

G. Enforcement and Remedies

If Contractor fails to comply with the requirements of this Section, County shall have the rights and remedies described in this Section in addition to any rights and remedies provided by law or equity.

1. Remedies For Submission of Late or Incomplete Certified Monitoring Reports: If Contractor submits a certified monitoring report to County after the date it is due or if the report submitted does not contain all of the required information or is inaccurate or is not properly certified, any such deficiency shall constitute a breach of this Contract. In the event of any such breach, County may, in its sole discretion, exercise any or all of the following rights/remedies:
 - a. Withholding of Payment: If Contractor fails to submit accurate, complete, timely, and properly certified monitoring reports, County may withhold from payment to Contractor up to the full amount of any invoice that would otherwise be due, until Contractor has satisfied the concerns of County, which may include required submittal of revised certified monitoring reports or additional supporting documentation.
 - b. Liquidated Damages: It is mutually understood and agreed that Contractor's failure to submit an accurate, complete, timely, and properly certified monitoring report will result in damages being sustained by County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for Contractor's breach. Therefore, in the event that a certified monitoring report is deficient, including, but not limited to, being late, inaccurate, incomplete, or uncertified, it is agreed that County may, in its sole discretion, assess against Contractor liquidated damages in the amount of \$100 per monitoring report for each day until County has been provided with a properly prepared, complete, and certified monitoring report. County may deduct any assessed liquidated damages from any payments otherwise due to Contractor.
 - c. Termination: Contractor's failure to submit an accurate, complete, timely, and properly certified monitoring report may constitute a material breach of this Contract. In the event of such material breach, County may, in its sole discretion, terminate this Contract.
2. Remedies for Payment of Less Than the Required Living Wage: If Contractor fails to pay any Employee at least the applicable hourly living wage rate, such deficiency shall constitute a breach of this Contract. In the

